UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA,   )
)
)
v.   )
)   Docket no. 2:10-cr-02-GZS
CHARLES D. STERGIOS,   )
)
)
             Defendant.   )
)

ORDER ON MOTION TO SEVER

Before the Court is Defendant's Motion to Sever (Docket # 31). Pursuant to Federal Rule of Civil Procedure 14(a), the Motion seeks to sever Count IV for purposes of trial. The Superceding Indictment in this case charges the Defendant with two counts of Bank Fraud (Counts I & II), one count of Mail Fraud (Count III) and one count of Escape (Count IV). The Escape charge alleges that in August 2009 the Defendant was still serving a sentence on a 2005 conviction for wire fraud, mail fraud and bank fraud. The charges contained in Counts I-III of the Superceding Indictment involve the same types of crimes and methodologies for committing those crimes as were involved in the 2005 conviction. If the jury were to hear about the 2005 conviction during a trial on Counts I-III, there is a significant risk that it would use the fact of the 2005 conviction to convict the Defendant on Counts I-III, which would unfairly prejudice the Defendant. The Court held a conference of counsel on April 15, 2009, at which it raised this concern with counsel for the Government and suggested that granting Defendant's Motion to Sever was the preferable method of ensuring Defendant a fair trial on Counts I-III. Although the

Government was invited to file a supplemental response to the Motion that addressed the Court's stated concerns, no such response was received.

Therefore, the Court hereby GRANTS Defendant's Motion to Sever. The case shall first proceed to trial on Counts I-III only. Currently, this first trial shall remain on the Court's June trial list unless Defendant seeks to have the matter continued to the Court's July trial list. After that first trial is completed, the case will be placed on the next trial list for a separate trial on Count IV.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 21st day of April, 2010.